

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

## **MEMORANDUM ON DISMISSAL**

Charles Alpine, a Texas Department of Criminal Justice (TDCJ) inmate, sued in November 2014, alleging civil rights violations resulting from a denial of due process. Alpine, representing himself, sued R. Wathen, Warden of the Allred Unit, and R. Stivers, head of the Grievance Board. Alpine alleges that these prison officials did not investigate and address his grievances complaining of the denial of access to the courts and the absence of bread from his meal tray. Alpine seeks punitive damages of \$130,000.00. Alpine's claims are barred by the three-strikes provision of 28 U.S.C. § 1915(g). This civil action is therefore dismissed.

A prisoner may not bring a federal civil action without prepaying fees if, while incarcerated, three or more of his civil actions or appeals were dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, unless he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g). Alpine's litigation history reveals that at least six of his prior lawsuits were dismissed as frivolous. *Alpine v. Reno*, 1:96-47 (D.D.C.) (dismissed as frivolous on

January 17, 1996); *Alpine v. Reno*, 1:95-966 (D.D.C.) (dismissed as frivolous on May 24, 1995); *Alpine v. Reno*, 1:94-2155 (D.D.C.) (dismissed as frivolous on October 6, 1994); *Alpine v. Reno*, 1:94-2467 (D.D.C.) (dismissed as frivolous on November 16, 1994); *Alpine v. Casteel*, 4:93-2007 (S.D. Tex.) (dismissed as frivolous on August 18, 1993); and *Alpine v. Legg*, 4:93-1845 (S.D. Tex.) (dismissed as frivolous on August 11, 1993). Alpine has also had a prior suit dismissed under the three-strikes rule. On June 30, 2005, Alpine filed a civil rights action, Civil Action Number 4:05-2233, against Deputy Gerald Pitts, Sheriff Tommy Thomas, and Deputy R. D. Williams, complaining of his cell conditions. On July 7, 2005, the court dismissed this suit under 28 U.S.C. § 1915(g).

The three-strikes rule applies here as well. Because Alpine has not alleged, nor does his complaint demonstrate, that he is in imminent danger of serious physical injury, this suit is barred under 28 U.S.C. § 1915(g).

The complaint filed by Charles Alpine, (TDCJ-ID #1422624), is dismissed under 28 U.S.C. § 1915(g).<sup>1</sup> Alpine's motion to proceed without prepaying fees, (Docket Entry No. 2), is now denied. All pending motions are denied. Alpine is warned that continued frivolous filings may result in sanctions.

The Clerk will provide a copy of this order by regular mail, facsimile transmission, or e-mail to:

(1) the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas, 78711, Fax: 512-936-2159;

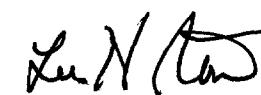
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<sup>1</sup>

In *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1998), the Fifth Circuit barred an inmate from proceeding further under the statute, except for cases involving an imminent danger of serious physical injury, and dismissing all of Adepegba's i.f.p. appeals pending in that court. The Fifth Circuit noted that the inmate could resume any claims dismissed under section 1915(g), if he decided to pursue them, under the fee provisions of 28 U.S.C. §§ 1911-14 applicable to everyone else.

- (2) the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, Fax: 936-437-4793; and
- (3) the District Clerk for the Eastern District of Texas, 211 West Ferguson, Tyler, Texas 75702, Attention: Manager of the Three-Strikes List.

SIGNED on November 26, 2014, at Houston, Texas.



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Lee H. Rosenthal  
United States District Judge